UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

CELESTE WILLIAMS, LAUREN CRUZ, EMANUEL O'NEALE, BRANDON STURMAN, LATRESHA HALL, LAKEISHA MITCHELL, CHRISTINE BORBELY, JULIE GARIBALDI and JANINE APONTE, on behalf of themselves and others similarly situated,

INDEX NO: 07cv3978-LAP

Plaintiffs,

v.

TWENTY ONES INCORPORATED d/b/a THE 40/40 CLUB, SHAWN CARTER p/k/a JAY-Z, JUAN PEREZ and DESIREE GONZALES,

Defendants.	
	W

DECLARATION OF THERESE RAZ

- I, Therese Raz, under penalty of perjury, affirm as follows:
- I am a New York resident and an opt-in plaintiff in the above-captioned matter. 1.
- I submit this declaration based on personal knowledge unless indicated otherwise. 2.
- I was employed as a Bartender at The 40/40 Club sports bar located at 6 West 25th 3. Street from approximately November 2006 through January 2007.
- Throughout my employment at The 40/40 Club, I was not paid the minimum 4. wage for each hour that I worked. Instead, I only received tips. Based on conversations with other employees of The 40/40 Club and what I witnessed, I know that it was the common practice of defendants to not pay its employees who received tips a minimum wage and/or hourly wage for any hours of work.
- I never received a paycheck from The 40/40 Club during my employment. 5. Therefore, I did not receive anything which reflected my hours of work, the wages I was

supposed to receive, or any withholdings for taxes. Based on conversations with other employees of The 40/40 Club and what I witnessed, I know this was the common practice of defendants.

- 6. During my employment, I regularly worked more than forty hours in a week. However, I was not paid time and a half for hours worked in excess of forty in a week. The 40/40 Club's failure to pay overtime is reflected in the time report attached as Exhibit A. Based on conversations with other employees of The 40/40 Club and what I witnessed, I know it was the common practice of defendants to not pay its employees an overtime premium.
- 7. The time report attached as Exhibit A also shows that I worked in excess of ten (10) hours per workday for defendants but I was never paid a "spread of hours" premium. I have personally witnessed other employees working shifts of more than ten (10) hours. Based on conversations with these employees, I know it was the common practice of defendants to not pay a "spread of hours" premium for workdays in excess of ten (10) hours.
- 8. Attached as Exhibit B are my alleged payroll reports provided by defendants and shown to me by my lawyers. I did not receive any payroll reports or pay checks during my employment at The 40/40 Club. Therefore, I never saw these documents prior to this lawsuit. Moreover, I have no reason to believe that these alleged payroll reports are an accurate reflection of my working hours at The 40/40 Club.
- 9. Attached as Exhibit C are my alleged W-2s provided by defendants and shown to me by my attorneys. Throughout my employment at The 40/40 Club, I never received a W-2 and have never seen these documents prior to this lawsuit. However, I did receive a 1099 form, which is attached as Exhibit D. I have no reason to believe that these alleged W-2s or this 1099 form are an accurate reflection of what I was actually paid in wages. Furthermore, based on

conversations with other employees of The 40/40 Club and what I witnessed, I know it was the common practice of defendants to not provide W-2s to its employees.

- 10. I believe that portions of my tips were retained by defendants. The 40/40 Club did not provide us with, or require us to fill out, any sort of tip declaration form. Because The 40/40 Club did not provide us with any records establishing the amount of tips I should have received, I have no independent means of verifying these amounts. However, based on the tips given to me by patrons and what was eventually paid to me by defendants, I believe that I did not receive all of my tips due.
- 11. If a patron of The 40/40 Club did not sign their credit card receipt, defendants retained the disputed tip for ninety (90) days. Defendants gave me a copy of this policy, which is attached as Exhibit E.
- 12. I was not paid any direct wage by The 40/40 Club. Because The 40/40 Club never paid me any direct wages, I was not paid the wages I was owed in a timely manner. Other employees have reported to me that they were not paid any direct wages by The 40/40 Club. Therefore, I know that it was the common practice of defendants to not pay its employees in a timely manner.
- 13. If a patron left The 40/40 Club without paying the bill, defendants would force its employees to pay the bill out with his/her own money.
- 14. Similarly, The 40/40 Club forced employees to pay for breakages, spills, and the like. I know this was the policy at The 40/40 Club because this happened to me personally and I had to pay for it.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 8 day of Junuary, 2008.

Therese Raz

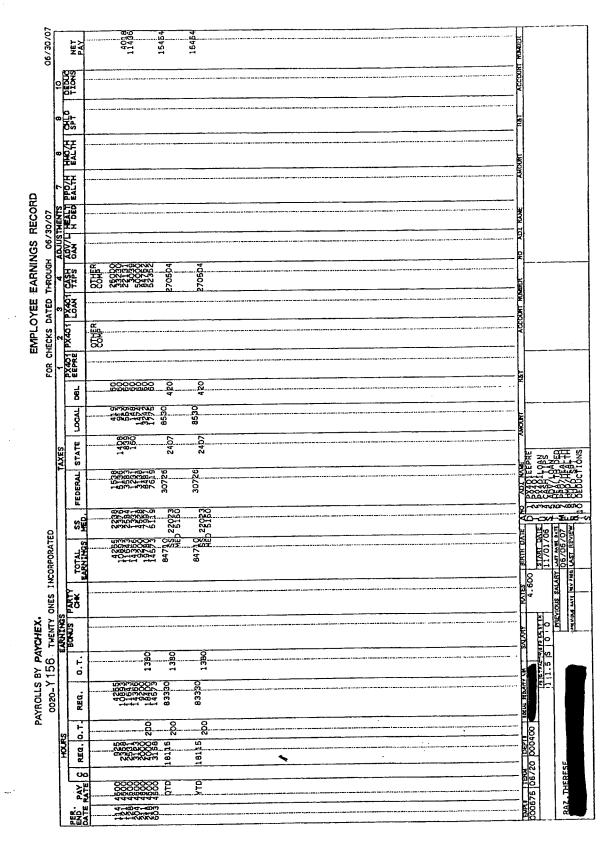
EXHIBIT A

PACE: 1 40/40 NYC REPORT TIME: 20:32:17.51 REPORT DATE: 06/14/2007 Payroll Report for the period from Mon Dec 11, 2006 to Sun Dec 17, 2006 REG regular OTW ovt-week OTD ovt-day MSC misc pay SAL salary ADJ adjustment DEL deleted punch * Rate changed in punch Types of punches not included in regular or overtime calculation: PADJ prev.period adjustment HOL holidays SHOF shift diff.pay Tips Pool Type Hours Rate Department Job RAZ, THERESE M. 50.00 REG 39.1333 4.130 161.62 FRONT OF HOUSE BARTENDER End Date: 02/18/07 0.00 OTD 10.5667 0.000 Total: 39.1333 regular hours (161.62) and 10.5667 overtime hours (0.00) and 0.0000 other hours Total Amt 161.62 +-Department-----Job------Day---Date--Rate---Type-----In----Out---Hrs-+ 7:S9p 3:07a 7.13 | FRONT OF HOUSE BARTENDER Tue. 12/12 4.130 Thu. 12/14 4.130* 4:59p 3:27a 10.47 | Fri. 12/15 4.130* S:31p 6:4Sa 13.23 i Sat. 12/16 4.130* 6:53p 5:35a 10.70 \$ Sun. 12/17 4.130* 5:43p 1:53a 8.17 |

***Total wages for selected employees: 161.62

D04643

EXHIBIT B



13-Jul-2007 11:43 AM PAYCHEX 7329268308

EXHIBIT C

Jun-15-2007 04:21 AM PAYCHEX, INC.	٧,		2/2
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		 9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale ▶ 	10 Crop insurance proceeds\$	required to file a return, a negligence penalty or other sanction may be
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Account number (see instructions)		13 Excess golden parachute payments	14 Gross proceeds paid to an attorney\$	determines that it has not been reported.
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Redacted

EXHIBIT E

THE 40/40 CLUB POLICY AND PROCEDURE EMPLOYEE UNDERSTANDING

NAME Throse ROZ	5
DATE 11/29/00	
POSITION Intender	

I UNDERSTAND THE FOLLOWING POLICIES, THEY HAVE BEEN EXPLAINED, WRITTEN, READ AND DISCUSSED AT VARIOUS MEETING'S

- 1. THERE IS A SIX STEP CREDIT CARD PROCEDURE, IT IS POSTED AND IF NOT FOLLOWED MAY CAUSE MY PAYMENT OF THE FULL AMOUNT OF THE CHECK IN QUESTION.
- 2. THERE IS ZERO TOLERANCE POLICY FOR DRUG SALE OR USE BY AN EMPLOYEE OR CUSTOMER. ALCOHOL USE BY AN EMPLOYEE, SERVING TO MINORS OR INTOXICATED PATRON'S. THERE ARE PROCEDURES THAT I MUST FOLLOW IF ANY OF THE ZERO TOLERANCE INCIDENTS OCCUR.
- 3. I MUST BE FLUENT IN ALL MENU ITEMS.
- 4. I MUST ATTEND WEEKLY MEETINGS.
- 5. I MUST BE FLUENT IN THE NAME OF THE